

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
DIRECTV Enterprises, LLC)	File Nos. SAT-LOA-20030611-00115
)	SAT-AMD-20031126-00341
Application for Authority to Launch and Operate)	SAT-AMD-20031201-00344
DIRECTV 7S (USABSS-18))	
)	
)	
Application for Special Temporary Authority to)	File No. SAT-STA-20031203-00346
Operate the DIRECTV 7S DBS Satellite at 129°)	Call Sign S2455
W.L. for a Two-Week Period to Conduct In-Orbit)	
Testing)	
)	

ORDER AND AUTHORIZATION

Adopted: April 28, 2004

Released: April 28, 2004

By the Chief, Satellite Division, International Bureau:

I. INTRODUCTION

1. By this *Order*, we grant DIRECTV Enterprises, LLC ("DIRECTV") authority to launch and operate a new satellite, DIRECTV 7S, to provide direct broadcast satellite ("DBS") service. DIRECTV 7S will be located in the same DBS satellite cluster¹ as DIRECTV 5, which is currently operating in the cluster at the 119° W.L. nominal orbit location. Specifically, DIRECTV 7S will be located at the 119.2° W.L. orbit location.² We also grant DIRECTV Special Temporary Authority ("STA") for up to two weeks to conduct in-orbit testing ("IOT") of the DIRECTV 7S satellite at the 129° W.L. orbit location. This authorization will allow DIRECTV to use its assigned DBS frequencies at the 119° W.L. cluster location more efficiently and expand its programming options by providing local broadcast programming, thereby serving the public interest.

II. BACKGROUND

2. DIRECTV provides DBS service to U.S. consumers from the 101° W.L., 110° W.L., and 119° W.L. DBS satellite cluster locations.³ In May 1999, DIRECTV acquired 11 DBS channels at

¹ DBS satellite clusters comprise one or more DBS satellites located within $\pm 0.2^\circ$ of the nominal orbital location (*i.e.* 119° W.L. $\pm 0.2^\circ$). Clusters are described in No. 4.13 and Figure 9 of Annex 3 of Appendix 30A of the ITU Radio Regulations.

² For Fixed Satellite Service ("FSS") space stations in the geostationary satellite orbit, the Commission requires longitudinal stationkeeping capability of $\pm 0.05^\circ$, and may authorize operation at locations offset by 0.05° . See 47 C.F.R. § 25.210(j). Feeder links for the DBS service are in the FSS bands. See 47 C.F.R. § 25.202(1).

³ See Application of DIRECTV Enterprises, LLC for Authority to Launch and Operate DIRECTV 7S (USABSS-18), File No. SAT-LOA-2003-0611-00115 (filed June 11, 2003) ("*DIRECTV Application*") at 1. See also Letter from William M. Wiltshire, Counsel for The DIRECTV Group, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission (dated March 16, 2003). Hughes Electronics Corporation, which wholly owns DIRECTV, Inc. and Hughes Network Systems and holds a controlling interest in PanAmSat Corporation, has changed its company name to "The DIRECTV Group, Inc."

(continued....)

119° W.L. from Tempo Satellite (“Tempo”).⁴ In November 2000, the Commission authorized DIRECTV to launch a new satellite, DIRECTV 5,⁵ into the 119° W.L. cluster location.⁶ In May 2002, DIRECTV launched DIRECTV 5, and soon thereafter began providing service at the 119° W.L. cluster location.

3. DIRECTV now seeks to launch and operate DIRECTV 7S at the 119° W.L. cluster location in the 12.2-12.7 GHz and 17.3-17.8 GHz bands and collocate it with its DIRECTV 5 satellite.⁷ In support of its application, DIRECTV explains that DIRECTV 7S, a spot beam satellite,⁸ will increase DBS consumers’ programming choices, improve DIRECTV’s spectrum efficiency, and enhance the system’s capacity to provide local broadcast signals under the broadcast signal carriage provisions of the Satellite Home Viewer Improvement Act of 1999 (“SHVIA”) and the Commission’s rules implementing SHVIA.⁹ These provisions (otherwise known as “local-into-local” service) require satellite carriers to carry, upon request, all local television broadcast stations’ signals in local markets in which the satellite carrier carries at least one local television broadcast signal pursuant to the statutory copyright license.¹⁰ DIRECTV states in its application that the launch of DIRECTV 7S will enable DIRECTV to provide local-into-local service to U.S. consumers residing in more than 100 Nielsen-defined “Designated Market Areas” (“DMAs”).¹¹

4. DIRECTV’s application was placed on public notice on July 8, 2003.¹² The State of Hawaii (“Hawaii”) and SES Americom, Inc. (“SES Americom”) filed comments on August 7, 2003.¹³ The State of Hawaii asserts that DIRECTV’s service in Hawaii is not comparable to DBS programming available to the rest of the country. The State of Hawaii requests that the Commission continue to maintain close

(...continued from previous page)

⁴ See *In re Tempo Satellite, Assignor, and DIRECTV Enterprises, Inc., Assignee, Application for Consent to Assign Authorization to Construct, Launch and Operate a Direct Broadcast Satellite System Using 11 Frequencies at the 119° W.L. Orbital Location, Order and Authorization*, 14 FCC Rcd 7946 (1999).

⁵ See Public Notice, Policy Branch Information, Report No. SAT-00187 (released January 15, 2004). DIRECTV has recently filed an application for STA to drift DIRECTV 5 from its current orbit position at 119° W.L. to the Canadian Broadcasting-Satellite Service (“BSS”) orbit position at 72.5° W.L. This application is awaiting action by the Commission.

⁶ See *In the Matter of DIRECTV Enterprises, Inc. Application for Authority to Launch and Operate a Direct Broadcast Service Satellite, Order and Authorization*, 15 FCC Rcd. 23630 (2000).

⁷ See DIRECTV Application; Supplemental Filing-Form 312, File No. SAT-AMD-20031126-00341 (filed November 26, 2003); and DIRECTV Enterprises, LLC Supplemental Information for DIRECTV 7S File No. SAT-LOA-20030611-00115, Call Sign S2455, Minor Amendment, File No. SAT-AMD-20031201-00344 (filed December 1, 2003).

⁸ Specifically, DIRECTV 7S will use all 11 of the channels that DIRECTV is licensed to use at 119° W.L. DIRECTV 7S will employ spot beam technology on four of these channels, channels 23, 25, 29, and 31 (reusing channels 23, 25, and 31 ten times each, and channel 29 nine times), and a national beam on the remaining seven channels. DIRECTV Application at 1-2.

⁹ DIRECTV Application at 6-7 (*citing* the Satellite Home Viewer Improvement Act of 1999, Pub. L. No. 106-113, 113 Stat. 1501, 1501A-526 to 1501A-545 (November 29, 1999) (SHVIA), *codified at* 47 U.S.C. § 338, and *Implementation of the Satellite Home Viewer Improvement Act of 1999*, CS Docket No. 00-96, Report and Order, FCC 00-417, 16 FCC Rcd 1918 (2000), Order on Reconsideration, FCC 01-249, 16 FCC Rcd 16544 (2001)).

¹⁰ 47 U.S.C. § 338; 47 C.F.R. § 76.66(b).

¹¹ DIRECTV Application at 6.

¹² Public Notice, Policy Branch Information, Report No. SAT-00156 (released July 8, 2003).

¹³ Comments of Hawaii, File No. SAT-LOA-200300611-00115 (August 7, 2003) (“*Hawaii Comments*”); Comments of SES Americom, Inc., File No. SAT-LOA-20030611-00115 (August 7, 2003) (“*SES Americom Comments*”).

scrutiny of DIRECTV to ensure that DIRECTV complies with the Commission's geographic service rules.¹⁴ Hawaii requests that the Commission explicitly condition DIRECTV's launch authorization on promptly providing reasonably comparable service to Hawaii, in part by immediately providing the 22 major programming channels that DIRECTV claims to have withheld because of the ongoing litigation with the National Rural Telecommunications Cooperative ("NRTC").¹⁵ Hawaii also asks the Commission to condition DIRECTV's authorization on the outcome of the Commission's ongoing investigation into DIRECTV's compliance with the Commission's geographic service rules.¹⁶ SES Americom seeks clarification on certain aspects of DIRECTV's technical showing for the proposed satellite.

5. On August 18, 2003, DIRECTV filed reply comments responding to SES Americom and the State of Hawaii.¹⁷ SES Americom subsequently filed a reply. SES Americom states that the Commission should require DIRECTV to provide an Appendix 30/30A analysis that specifies the impact on all assignments and pending modifications that have higher priority than DIRECTV 7S (USABSS-18) at the International Telecommunication Union ("ITU"), in accordance with Section 25.111(c) of the Commission's rules.¹⁸ SES also requests the Commission to condition DIRECTV's license upon seeking agreement with all Administrations having affected assignments or higher priority pending modifications.

6. On November 17, 2003, the Satellite Division sent a letter to DIRECTV,¹⁹ requesting additional information required by Section 25.114 of the Commission's rules,²⁰ including a Form 312 and certain technical information required by Sections 25.114(c) of the Commission's rules.²¹ On November 26, 2003, DIRECTV filed an amendment to its application containing a Form 312.²² On December 1, 2003, DIRECTV also submitted an amendment containing the requested technical information.²³ This information was placed on public notice on December 5, 2003.²⁴ DIRECTV also has filed a request for STA to conduct IOT of the DIRECTV 7S satellite at the 129° W.L. orbit location for a period of two weeks.²⁵

¹⁴ Hawaii Comments at 5.

¹⁵ *Id.* See also *National Rural Telecommunications Cooperative v. DIRECTV, Inc., Hughes Communications Galaxy, Inc.*, Order Granting Final Approval of Class Action Settlement, U.S. District Court Central District of California (January 5, 2004).

¹⁶ Hawaii Comments at 5. See also MB Docket No. 03-82.

¹⁷ Reply Comments of DIRECTV Enterprises, LLC, File No. SAT-LOA-20030611-00115 (August 18, 2003) ("*DIRECTV Reply Comments*").

¹⁸ Reply of SES Americom, Inc., File No. SAT-LOA-20030611-00115 (August 25, 2003) ("*SES Americom Reply*").

¹⁹ Letter from Thomas Tycz, Chief, Satellite Division, to James H. Barker, III, Esq., Counsel to DIRECTV Enterprises, LLC (dated November 17, 2003).

²⁰ 47 C.F.R. § 25.114.

²¹ 47 C.F.R. §§ 25.114(c)(5), 25.114(c)(8), and 25.114(c)(12).

²² File No. SAT-AMD-20031126-00341.

²³ File No. SAT-AMD-20031201-00343.

²⁴ Public Notice, Policy Branch Information, Report No. SAT-00180 (released December 5, 2003).

²⁵ Letter from James R. Butterworth, Senior Vice President, DIRECTV Enterprises, LLC to Tom Tycz, Chief, Satellite Division, International Bureau (dated December 3, 2003). See also DIRECTV Enterprises, LLC Request for Special Temporary Authority to Operate the DIRECTV 7S DBS Satellite at 129° W.L. for a Two-Week Period to Conduct In-Orbit Testing, File No. SAT-STA-20031203-00346, (dated December 3, 2003) ("*DIRECTV STA Request*").

III. DISCUSSION

7. We find that granting DIRECTV's application is in the public interest. The DIRECTV 7S satellite will allow DIRECTV to increase and improve its service offerings to consumers. Furthermore, the increased efficiency will enable DIRECTV to offer additional programming, including local-into-local channels. This will provide greater competition in the multi-channel video programming distribution ("MVPD") market.

8. *Interference Analysis of Satellite.* In considering DIRECTV's application, we must, among other things, evaluate the proposed satellite's interference potential to other DBS licensees and to the radiocommunications systems of other countries. In particular, we must determine whether the DIRECTV 7S satellite will be operated in accordance with Appendices 30 and 30A of the ITU Radio Regulations. Because the technical parameters of DIRECTV's DBS system vary from those set forth for U.S. assignments in the Region 2 Broadcasting-Satellite Service Plan ("Region 2 BSS Plan") and the associated Feeder Link Plan,²⁶ the Commission must request modification by the ITU of the Region 2 BSS Plan and its associated Feeder Link Plan for the DIRECTV 7S satellite by the ITU.²⁷ Annex 1 of Appendices 30 and 30A provide the methodology and criteria for determining whether a proposed satellite system (*i.e.*, a proposed modification to the Plan) may interfere with frequency assignments that are in accordance with the Region 2 BSS Plan and its associated Feeder Link Plan, other satellite systems, or terrestrial services.²⁸ If the limits in Annex 1 are exceeded, agreement must be sought from the Administrations responsible for the affected systems or services.

9. Upon review of DIRECTV's application, we find sufficient evidence to determine that DIRECTV 7S will not cause unacceptable interference to other U.S. licensed DBS systems. DIRECTV has also submitted analyses demonstrating DIRECTV 7S's interference potential to radiocommunications systems of other countries.²⁹ In that regard, SES Americom is concerned that DIRECTV did not include in its analyses the United Kingdom-filed modification to the Region 2 BSS Plan associated with SES Americom's proposal to provide DBS service in the United States.³⁰ DIRECTV argues that the networks filed by SES Americom through the U.K. Administration affect U.S. assignments and U.S. modifications that were previously entered into the Region 2 BSS Plan, and therefore these U.K. networks will require substantial modifications to their operating characteristics in order to be entered as modifications to the Region 2 BSS Plan. Thus, DIRECTV asserts, it is premature for DIRECTV to take these networks into account.³¹

²⁶ The ITU Radio Regulations divide the world into three Regions. Generally, Region 1 includes Africa, Europe, Northern and Western portions of Asia; Region 2 includes the Americas and Greenland; and Region 3 includes Southern portions of Asia, Australia and the South Pacific. See ITU Radio Regulations Article 5, Section I. Unless referring specifically to the Region 2 BSS Plan and its associated Feeder Link Plan, in the United States the term "DBS" is used interchangeably with "BSS."

²⁷ Some of these varying parameters include type of emission, size of receive dish antennas and the use of spot beams.

²⁸ See ITU Radio Regulations, Appendices 30 and 30A. See ITU Radio Regulations, Appendices 30 and 30A. This includes proposed modifications to the Region 2 BSS Plan submitted to the ITU by other Administrations prior to the U.S. submission to the ITU of the information for USABSS-18 (DIRECTV 7S).

²⁹ See DIRECTV Application at Appendices 3 and 4.

³⁰ See Comments of SES Americom at 3. See also Public Notice, Report No. SAT-00110 (rel. May 17, 2002) (seeking comment on SES Americom's petition for declaratory ruling to provide DBS service in the United States from a satellite licensed by the Government of Gibraltar at 105.5° W.L.). The United Kingdom is pursuing ITU coordination of this satellite on behalf of Gibraltar. See Comments of SES Americom at 3.

³¹ DIRECTV Reply Comments at 5.

10. We note that, following the approval of both the U.S. and the U.K. Administrations, SES Americom and DIRECTV have entered into an operator-to-operator agreement-seeking process to establish the criteria under which their respective systems can operate and coexist. We expect both operators to continue negotiating in good faith to resolve their differences. We remind DIRECTV that its satellite operations are not guaranteed protection from interference from systems licensed by other Administrations operating in accordance with the ITU Radio Regulations unless and until the Region 2 BSS Plan and its associated Feeder Link Plan are modified to include the technical parameters of DIRECTV 7S. Further, we condition operation of DIRECTV 7S such that, until the Region 2 BSS Plan and its associated Feeder Link Plan are modified by the ITU to include DIRECTV 7S's parameters, DIRECTV shall not cause greater interference than that which would occur from the current USA Region 2 Plan assignments at 119° W.L. to other BSS or feeder link assignments, or other services or satellite systems, operating in accordance with the ITU Radio Regulations.³² These conditions require DIRECTV to seek agreement from any Administration having an affected Region 2 Plan assignment or prior-filed Plan modification, unless and until the Region 2 BSS Plan and its associated Feeder Link Plan are modified to include DIRECTV 7S's parameters. DIRECTV will be expected to provide continuing documentation, as necessary, for the agreement-seeking process.³³ Similarly, DIRECTV may be required to assist the Commission in future cases in which it may be required to negotiate with the Administrations of later implemented systems regarding DIRECTV's network.

11. *Telemetry, Tracking, and Control.* Section 25.202(g) of the Commission's rules³⁴ requires that telemetry, tracking, and control ("TT&C") functions for U.S.-licensed satellites be conducted at either or both ends of the allocated bands for the service. DIRECTV has filed a request for a limited waiver of Section 25.202(g) to use 14.0-14.5 GHz fixed-satellite service ("FSS") frequencies³⁵ for the purpose of conducting transfer orbit TT&C operations for DIRECTV 7S.³⁶ DIRECTV states that the waiver is required because Loral Skynet, which will be conducting transfer orbit TT&C on behalf of DIRECTV, uses INTELSAT ground stations around the world and none of these stations is equipped with 17 GHz command capabilities, and therefore, 14 GHz FSS frequencies must be used for the transfer orbit TT&C of DIRECTV 7S.³⁷ DIRECTV states that barring unforeseen circumstances, the need to use 14 GHz FSS frequencies for telecommand operations during transfer orbit TT&C will endure only for approximately a ten-day period from the time that DIRECTV 7S is launched until it is positioned in the vicinity of 129° W.L. for IOT.³⁸ DIRECTV further states that it will follow well-developed and industry-standard practices for conducting transfer orbit operations, which include ensuring that no harmful interference occurs into the operations of any operating satellite.³⁹

12. The Commission may waive a rule for good cause shown.⁴⁰ Waiver is appropriate if special circumstances warrant a deviation from the general rule and such deviation would better serve the public

³² DIRECTV agrees to these license conditions for DBS satellites. See DIRECTV Reply Comments at 6.

³³ This includes, but is not limited to, the submission of any information or analyses necessary for completing the Region 2 BSS Plan modification process.

³⁴ 47 C.F.R. § 25.202(g).

³⁵ Specifically, 14003 MHz and 14497 MHz, with an emission bandwidth of 1 MHz.

³⁶ See DIRECTV Enterprises, LLC Supplemental Part 25 Information for DIRECTV 7S, File No. SAT-LOA-20030611-00115, Call Sign S2455; Minor Amendment, File No. SAT-AMD-20031201-00344, Attachment B, Waiver Request for Use of the 14 GHz Band for Transfer Orbit TT&C Operations (filed December 1, 2003).

³⁷ *Id.* at ¶ 3.

³⁸ *Id.* at ¶ 5.

³⁹ *Id.* at ¶ 6.

⁴⁰ 47 C.F.R. § 1.3.

interest than would strict adherence to the general rule.⁴¹ Generally, the Commission may grant a waiver of its rules in a particular case if the relief requested would not undermine the policy objective of the rule in question and would otherwise serve the public interest.⁴²

13. In the *Part 100 Order*,⁴³ the Commission stated that with respect to transfer orbit operations, operators may seek to use different earth stations than those that will ultimately be used for on-orbit operations.⁴⁴ In these cases, the earth station used for these relatively short-term transfer orbit TT&C functions may not necessarily be designed to operate in the edges of the DBS service bands.⁴⁵ The Commission also stated that because transfer orbit operations may occur at a location far from the final assigned orbit position, the earth station that will be used for on-orbit TT&C may not be available for transfer orbit TT&C. Therefore, the Commission stated that it would evaluate requests to use FSS frequencies for transfer orbit TT&C operations on a case-by-case basis.⁴⁶

14. We find that DIRECTV has shown good cause for granting a waiver of Section 25.202(g) for the limited purpose of transfer orbit TT&C operations of DIRECTV 7S. DIRECTV has also shown that special circumstances exist that warrant a deviation from Section 25.202(g) for the limited purpose of short-term transfer orbit TT&C of DIRECTV 7S. In particular, the lack of 17 GHz DBS-band TT&C facilities around the world, and the presence of 14 GHz FSS-band TT&C facilities. Granting DIRECTV's waiver request for this limited purpose will not undermine the policy objective of the rule. Therefore, we grant DIRECTV's request for a waiver of Section 25.202(g) of the Commission's rules for the period from the launch of DIRECTV 7S until DIRECTV 7S is located at the 129° W.L. orbit location.

15. *Geographic Service Rule.* As noted above, Hawaii requests that the Commission should explicitly condition DIRECTV's launch authorization on "promptly providing reasonably comparable DBS service in Hawaii, in part, through the immediate provision of ... [DIRECTV's] 22 major programming channels...."⁴⁷ In addition, Hawaii also asks the Commission to condition DIRECTV's launch authorization on the outcome of the Commission's ongoing investigation into DIRECTV's geographic service requirements.⁴⁸ The Commission's geographic service rules state that licensees "acquiring DBS authorizations after January 19, 1996... must provide DBS service to Alaska and Hawaii where such service is technically feasible from the authorized orbital location."⁴⁹ DBS providers must also "offer[s] packages of service in Alaska and Hawaii that are reasonably comparable to what the provider offers in the contiguous 48 states."⁵⁰ In its application, DIRECTV commits to provide service to the States of Alaska and Hawaii using its DIRECTV 7S satellite.⁵¹ DIRECTV also commits to add to its Hawaii

⁴¹ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1166 (D.C. Cir. 1990).

⁴² *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969); *Dominion Video Satellite, Inc., Order and Authorization*, 14 FCC Rcd 8182 (1999).

⁴³ See *In the Matter of Policies and Rules for the Direct Broadcast Satellite Service, Report and Order*, 17 FCC Rcd 11331 (2002) ("*Part 100 Order*").

⁴⁴ *Id.* at ¶ 132

⁴⁵ *Id.*

⁴⁶ *Id.* at ¶ 132.

⁴⁷ Hawaii Comments at 5.

⁴⁸ *Id.*

⁴⁹ 47 C.F.R. § 25.148(c).

⁵⁰ *Part 100 Order* at ¶ 72.

⁵¹ DIRECTV Application at 8.

programming package at least 22 programming channels.⁵² DIRECTV states that upon successful launch of DIRECTV 7S, the addition of the 22 channels will make programming to “Hawaiian subscribers nearly identical to the services that DIRECTV provided to CONUS subscribers.”⁵³ Since DIRECTV has voluntarily committed to the Commission to provide these services and will be required to comply with the outcome of the Media Bureau proceeding addressing the geographic service rule governing service to Alaska and Hawaii,⁵⁴ we find that it is unnecessary to condition DIRECTV’s authorization as requested by the State of Hawaii. Accordingly, grant of DIRECTV’s application for authority to launch and operate DIRECTV 7S is without prejudice to action in the pending proceeding examining DIRECTV’s compliance with the Commission’s geographic service rule.⁵⁵

16. *In-Orbit Testing.* Finally, we grant DIRECTV’s request for STA to conduct in-orbit testing of the DIRECTV 7S satellite at the 129° W.L. orbit location. Grant of the STA will allow DIRECTV to complete IOT without disrupting ongoing service at the 119° W.L. DBS satellite cluster location. The Commission typically allows licensees to conduct IOT at orbit locations different from those authorized, subject to coordination with affected adjacent satellite operators. DIRECTV states that grant of the requested STA will not interfere with the operations of other BSS satellites in the vicinity of 129° W.L.⁵⁶ According to DIRECTV, the 129° W.L. orbit location is assigned to Canada under the Region 2 BSS Plan, but is currently unused.⁵⁷ DIRECTV’s requested temporary IOT at 129° W.L. is acceptable to the Canadian regulatory authorities with certain conditions.⁵⁸ In addition, DIRECTV states that the closest operational DBS satellites to 129° W.L. are at the 119° W.L. cluster location.⁵⁹ Grant of the STA is conditioned on DIRECTV 7S not causing harmful interference to any lawfully operating in-orbit satellites, and DIRECTV shall cease testing operations immediately upon notification of such interference. In addition, DIRECTV must notify the Commission upon the initiation and completion of the IOT. We remind DIRECTV of its responsibility to obtain the necessary earth station authorizations to communicate with DIRECTV 7S at the 129° W.L. orbit location.

17. *License Term.* DIRECTV states in its application that it intends to operate DIRECTV 7S as a direct broadcast satellite,⁶⁰ on a non-broadcast, non-common carrier basis.⁶¹ Therefore, in accordance with Section 25.121(a) of the Commission’s rules,⁶² the license term for DIRECTV 7S will be 10 years.

⁵² DIRECTV Reply Comments at 2.

⁵³ *Id.*

⁵⁴ MB Docket No. 03-82.

⁵⁵ *Id.*

⁵⁶ DIRECTV STA Request at ¶ 4.

⁵⁷ *Id.* at ¶ 3.

⁵⁸ See email from Ms. Chantal Beaumier, Director, Space and International Regulatory Activities, Industry Canada to Rockie Patterson, Engineer, Satellite Engineering Branch, Federal Communications Commission (dated January 20, 2004).

⁵⁹ *Id.* at ¶ 4.

⁶⁰ DIRECTV Application at 1.

⁶¹ DIRECTV Application at 5.

⁶² See 47 C.F.R. § 25.121(a).

IV. ORDERING CLAUSES

18. Accordingly, IT IS ORDERED that the Application of DIRECTV Enterprises, LLC for Launch and Operating Authority for DIRECTV 7S, File Nos. SAT-LOA-20030611-00115, SAT-AMD-20031126-00341 and SAT-AMD-20031201-00344 IS GRANTED, and DIRECTV Enterprises, LLC IS AUTHORIZED to construct, launch and operate its satellite, DIRECTV 7S, using channels 22-32 in the 12.2-12.7 GHz and 17.3-17.8 GHz bands, at the 119.2° W.L. orbit location, with $\pm 0.05^\circ$ longitudinal stationkeeping, in accordance with the terms, representations, and technical specifications set forth in its application, as amended.

19. IT IS FURTHER ORDERED pursuant to Section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, that DIRECTV Enterprises, LLC is granted a waiver of Section 25.202(g) of the Commission's rules, 47 C.F.R. § 25.202(g), conditioned as set forth in this *Order* above to use the 14002-14004 MHz and 14496-14498 MHz bands for telecommand operations during transfer orbit for no longer than a 15-day period from the time that DIRECTV 7S is launched until it is positioned at 129° W.L.

20. IT IS FURTHER ORDERED that DIRECTV Enterprises, LLC shall coordinate the frequency and power usage with all existing satellites in orbit, which use frequencies in the 14002-14004 MHz and 14496-14498 MHz bands, and which could be adversely affected by the TT&C operations of this space station.

21. IT IS FURTHER ORDERED that DIRECTV Enterprise, LLC's request for Special Temporary Authority, File No. SAT-STA-20031203-00346, to conduct in-orbit testing of the DIRECTV 7S satellite at the 129° W.L. orbit location, is GRANTED for a period of two weeks after DIRECTV 7S is established in a geostationary satellite orbit in the vicinity of the 129° W.L. orbit location.

22. IT IS FURTHER ORDERED that in-orbit testing of DIRECTV 7S shall not cause harmful interference to any lawfully operating in-orbit satellites and DIRECTV Enterprises, LLC shall cease operations immediately upon notification of such interference during this period of testing.

23. IT IS FURTHER ORDERED that DIRECTV 7S will receive no protection from interference from other systems while testing at the 129° W.L. orbit location.

24. IT IS FURTHER ORDERED that DIRECTV Enterprises, LLC's use of the 129° W.L. orbit location will be for testing of DIRECTV 7S only. DIRECTV 7S shall make no commercial transmissions from this location.

25. IT IS FURTHER ORDERED that DIRECTV Enterprises, LLC shall notify the Commission by email to Rockie.Patterson@fcc.gov and Chip.Fleming@fcc.gov within 48 hours of the initiation and the completion of the testing of the DIRECTV 7S payload at the 129° W.L. orbit location.

26. IT IS FURTHER ORDERED that DIRECTV Enterprises, LLC shall not operate the payload of DIRECTV 7S during the drift of the satellite from the 129° W.L. orbit location to the 119.2° W.L. orbit location.

27. IT IS FURTHER ORDERED that DIRECTV Enterprises, LLC shall coordinate all transfer orbit Telemetry, Tracking, and Control operations with other potentially affected in-orbit DBS or Fixed-Satellite Service operators.

28. IT IS FURTHER ORDERED that the authorization granted in this *Order* is subject to the following conditions: (1) until the International Telecommunication Union Region 2 BSS Plan and its

associated Feeder Link Plan are modified to include the technical parameters of DIRECTV 7S and its associated feeder links, this satellite system shall not cause greater interference than that which would occur from the current U.S. assignments in the Region 2 BSS Plan at 119° W.L. to other BSS or feeder link assignments, or other services or satellite systems operating in accordance with the ITU Radio Regulations; and (2) no protection from interference caused by radio stations authorized by other Administrations is guaranteed to DIRECTV 7S unless and until Appendices 30 and 30A plan modification procedures are successfully and timely completed.

29. IT IS FURTHER ORDERED that DIRECTV Enterprises, LLC shall provide the Commission with all information it requires in order to modify the Appendix 30 Broadcasting-Satellite Service Plans and associated Appendix 30A feeder-link Plans, in accordance with the ITU Radio Regulations. DIRECTV Enterprises, LLC shall be held responsible for all cost recovery fees associated with these ITU filings. Any radio station authorization for which coordination has not been completed and/or for which the necessary agreements under Appendices 30 and 30A have not been obtained may be subject to additional terms and conditions as required to effect coordination or obtain the agreement of other Administrations. *See* 47 C.F.R. § 25.111(c).

30. IT IS FURTHER ORDERED that DIRECTV Enterprises, LLC must provide a written statement to the Commission within 60 days of the date of this *Order* that identifies any known satellites located at, or planned to be located at DIRECTV Enterprises, LLC's assigned orbit location, or assigned in the vicinity of that location such that the station-keeping volume of the respective satellites might overlap, and that states the measures that will be taken to prevent in-orbit collisions with such satellites. This statement should address any systems licensed by the FCC, and any systems applied for and under consideration by the FCC. The statement need not address every filing with the ITU that meets these criteria, but should assess and address any systems reflected in ITU filings that are in operation or that DIRECTV believes may be progressing toward launch, *e.g.* by the appearance of the system on a launch vehicle manifest. If DIRECTV Enterprises, LLC elects to rely on coordination with other operators to prevent in-orbit collisions, it shall provide a statement as to the manner in which such coordination will be effected.

31. IT IS FURTHER ORDERED that the license term for the DIRECTV 7S satellite, Call Sign S2455, is ten years and will begin to run on the date that DIRECTV Enterprises, LLC certifies to the Commission that the satellite has been successfully placed into orbit and its operation fully conforms to the terms and conditions of this *Order*.

32. IT IS FURTHER ORDERED that DIRECTV Enterprises, LLC has 30 days from the date of the release of this *Order* to decline this authorization as conditioned. Failure to respond within that period will constitute formal acceptance of the authorization as conditioned.

33. Assignment of any orbit location is subject to change by summary order of the Commission on 30 days notice and does not confer any permanent right to use the orbit and spectrum.

34. Neither this *Order* nor any right granted by this *Order*, shall be transferred, assigned or disposed of in any manner, voluntarily or involuntarily, or by transfer of control of any corporation

holding this authorization, to any person except upon application to the Commission and upon a finding by the Commission that the public interest, convenience and necessity will be served thereby.

35. This *Order* is issued pursuant to Section 0.261 of the Commission's rules on delegations of authority, 47 C.F.R. § 0.261, and is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Thomas S. Tycz
Chief, Satellite Division
International Bureau